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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,393	12/07/2001	Ken Lang	KLQ-001	4473
959	7590	07/14/2005	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			NGUYEN, MERILYN P	
			ART UNIT	PAPER NUMBER
			2161	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/010,393	LANG, KEN	
	Examiner Merilyn P Nguyen	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 April 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-54 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-54 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 07 December 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: Detailed action.

DETAILED ACTION

1. In response to the communication dated 04/27/2005, claims 1-54 are active in this application.
2. This application claims US Provisional Application 60/254038 filed on 12/07/2000.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mui (US 2003/0229529), in view of Brown (US 6,601,016).

Regarding claims 1 and 41, Mui discloses in an electronic device, a method, comprising the steps of:

- o providing user profiles regarding users (See [1331]); and
- o examining the user profiles to match at least two selected ones of the users (See [1331]).

However, Mui does not explicitly teach the matching information relating to fitness activity. On the other hand, Brown teaches fitness profiles 52, Fig. 2, and col. 9, 1-20, Brown et al.). Since Mui system relates to matching individuals with competencies. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to incorporate Mui

system to perform matching fitness activity. The motivation would have been apply Mui system on different fields such as matching individuals based on fitness activities.

Regarding claims 2 and 42, Mui/Brown discloses informing a first of the selected users of the scheduled fitness activity (See [1331], lines 16-17, Mui et al.).

Regarding claims 3 and 43, Mui/Brown further discloses sending an invitation to participate in the scheduled fitness activity to the first selected user (See [1407], Mui et al.).

Regarding claims 4 and 44, Mui/Brown wherein the invitation includes a user interface component for enabling the first selected user to accept or decline the invitation (See [1407], Mui et al.).

Regarding claims 5 and 45, Mui/Brown further discloses sending a communication to the second selected user informing the second selected user whether the first selected user accepted or declined the invitation (See [1406], Mui et al.).

Regarding claims 6 and 46, Mui/Brown discloses wherein calendars of fitness activities are maintained for the selected users and wherein the method further comprises the step of adding the scheduled fitness activity to the calendars of the selected users (See [1333], lines 5-14, Mui et al.).

Regarding claim 7, Mui/Brown discloses wherein the selected users have client devices with displays (Web clients 515, Fig. 5, Mui et al.) and wherein the client devices communicate with the electronic device and wherein the method further comprises the step of displaying the calendar for at least one of the calendars on the display of at least one of the client devices (See [0114], [[0117], Mui et al.).

Regarding claim 8, Mui/Brown discloses wherein the electronic device is a computer system (See Fig. 1, Mui et al.).

Regarding claim 9, Mui/Brown discloses wherein the step of examining is prompted by one of the selected users requesting the scheduling of the scheduled fitness activity (See [1333], line 8-14, Mui et al.).

Regarding claim 10, Mui/Brown further discloses providing a user interface element for specifying which of the users to invite to the scheduled fitness activity (See Fig. 20, and its corresponding text, Mui et al.).

Regarding claim 11, Mui/Brown discloses wherein the user interface element is part of a web Page (See Fig. 20, Mui et al.).

Regarding claim 12, Mui/Brown further discloses providing a user interface component for specifying a date, time and place for the scheduled fitness activity (See Fig. 24, Mui et al.).

Regarding claim 13, Mui/Brown discloses wherein the user interface component for specifying a date, time and place is part of a web page (See Fig. 24, Mui et al.).

Regarding claim 14, Mui/Brown discloses providing a user interface component for identifying what type of fitness activity the scheduled fitness activity is (See Fig. 24, Mui et al.).

Regarding claims 15 and 47, Mui/Brown discloses in an electronic device, a method, comprising the steps of:

- providing a user interface that enables a user to request a suitable partner (See Fig. 19, Mui et al.) for a fitness activity as addressed above in claim 1;
- conducting a search of candidate partners to locate a suitable partner (See Fig. 20, Mui et al.); and
- returning to the user a list of any suitable partners (See Fig. 25, Mui et al.).

Regarding claims 16 and 48, Mui/Brown discloses wherein the user interface enables the user to specify characteristics of a suitable partner (See fig. 19, Mui et al.).

Regarding claims 17 and 49, Mui/Brown discloses wherein the search looks for candidate partners having the specified characteristics (Fig. 20, Mui et al.).

Regarding claims 18 and 50, Mui/Brown discloses wherein only candidate partners matching at least some of the specified characteristics are set forth on the list (See Fig. 20, Mui et al.).

Regarding claims 19 and 51, Mui/Brown discloses wherein the user interface enables the user to specify suitable ages as one of the characteristics for a suitable partner (See [1333], lines 22-23, Mui et al.).

Regarding claims 20 and 52, Mui/Brown discloses wherein the user interface enables the user to specify a suitable geographic locale as one of the characteristics for a suitable partner

Regarding claims 21 and 53, Mui/Brown discloses wherein the user interface enables the user to specify a suitable skill level at the fitness activity for suitable partners (See [1333], Mui et al.).

Regarding claim 22, Mui/Brown further discloses receiving at least one user choice from the list of suitable partners; and sending an invitation communication to the user choices to participate in the fitness activity (See [1407], Mui et al.).

Regarding claim 23, Mui/Brown discloses wherein the user interface is provided to the user via a network (Internet 107, Fig. 1, Mui et al.).

Regarding claim 24, Mui/Brown discloses wherein the network is a computer network (See Fig. 1, Mui et al.).

Regarding claim 25, Mui/Brown discloses wherein the computer network is the Internet (Internet 107, Fig. 1, Mui et al.).

Regarding claim 26, Mui/Brown discloses in a computer system, a method, comprising the steps of:

- o providing a web site having:
 - a matching facility for identifying persons that are well-matched to a first user (Fig. 19, and corresponding text, Mui et al.) for a particular type of fitness activity as addressed above in claim 1;
 - a scheduling facility for scheduling fitness activities among persons (See Fig. 26);
 - using the matching facility to identify at least one person that is well-matched to the user for a first type of fitness activity (See Fig. 25, and corresponding text, Mui et al.); and
 - using the scheduling facility to schedule a first event of the first type of fitness activity between participants, including the first user and the well-matched person (See [1246], Mui et al.).

Regarding claim 27, Mui/Brown further discloses sending electronic reminders to the participants of the scheduled first event of the first type of fitness activity (See [0308], Mui et al.).

Regarding claim 28, Mui/Brown further discloses receiving a communication indicating that a selected one of the participants can no longer participate in the first event of the first type of fitness activity; and adjusting the scheduling of the first event of the first type of fitness activity with the scheduling facility to indicate that the selected participant will not participate (See [1407], Mui et al.).

Regarding claim 29, Mui/Brown further discloses:

- receiving a communication requesting cancellation of the first event of the first type of fitness activity;
- in response to the communication, canceling the first event of the first type of fitness activity with the scheduling mechanism.

(See [1407], Mui et al.)

Regarding claim 30, Mui/Brown further discloses:

- sending electronic notification to each of the participants of the first event of the first type of fitness activity that the first event of the first instance of the first type of fitness activity has been cancelled (See [1210], Mui et al.).

Regarding claim 31, Mui/Brown further discloses:

- receiving a communication requesting a change in the first event of the first type of fitness activity;
- in response to the communication, modifying scheduling of the first event of the first type of fitness activity; and
- sending electronic notifications to the participants to inform the participants of the modifying of the scheduling of the first event of the first type of fitness activity.

(See [1210], Mui et al.).

Regarding claim 32, Mui/Brown further discloses providing participants with an option of designating whether the participants wish to continue to participate in the first event of the first type of fitness activity in view of the modifying of the scheduling (See [1210], Mui et al.).

Regarding claim 33, Mui/Brown further discloses using the scheduling facility to schedule a second event of the first type of fitness activity (See 2420, Fig. 24, Mui et al.).

Regarding claim 34, Mui/Brown discloses wherein the second event is scheduled for a second user (See [1407], Mui et al.).

Regarding claim 35, Mui/Brown further discloses using the scheduling facility to schedule a third event of a second type of fitness activity {See [1406-1407], Mui et al.}.

Regarding claims 36 and 54, Mui/Brown discloses in an electronic device, a method, comprising the steps of:

- prompting a participant in a fitness activity for feedback regarding a selected participant in the fitness activity;
- in response to the prompting, obtaining the feedback regarding the selected participant; and
- making information regarding the feedback available to parties that are considering scheduling a fitness activity with the selected participant.

Please see [1362-1405] and as addressed above in claim 1.

Regarding claim 37, Mui/Brown further discloses making feedback from other participants of the fitness activity regarding the selected participant available to the parties (See [1362-1405], Mui et al.).

Regarding claim 38, Mui/Brown further discloses making additional feedback from other fitness activities regarding the selected participant available to the parties (See [1362-1405], Mui et al.).

Regarding claim 39, Mui/Brown discloses wherein the prompting is performed over a computer network (Internet 107, Fig. 1, Mui et al.)

Regarding claim 40, Mui/Brown discloses wherein the information regarding the feedback is made available over a computer network (Internet 107, Fig. 1, Mui et al.).

Response to Arguments

4. Applicant's arguments filed on 04/27/2005 have been fully considered, but they are not persuasive.

The Applicant argues that Mui in view of Brown does not teach or suggest matching at least two selected ones of the users for a scheduled fitness activity. The Examiner respectfully point out that as admitted in the rejection that Mui does not teaches matching at least two selected ones of the users for a scheduled fitness activity. However, Mui does teach matching users that meet the competency level requirements of a desired business goal. Mui teaches user goal profile, which may include skill competencies and gaps, roles and responsibilities, interests and career goals, instead of fitness profile. Brown teaches fitness profile related to fitness activity. However, one of ordinary skill in the inventory art would have recognized that the system of matching users of Mui would be obvious to apply on different field such as matching users based on fitness activity. This is regarded as intended use and is thus not given patent able weight. A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). And, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

All other independent claims are rejected as the same as addressed above.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Merilyn P Nguyen whose telephone number is 571-272-4026. The examiner can normally be reached on M-F: 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MN
July 09, 2005

Frantz Coby
FRANTZ COBY
PRIMARY EXAMINER